

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

PILGRIM'S PRIDE CORPORATION

(VPDES Permit No. VA0002313)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d), between the State Water Control Board and Pilgrim's Pride Corporation, for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.

6. “WWTP” means wastewater treatment plant.
7. “Pilgrim’s Pride” means Pilgrim’s Pride Corporation, which owns and operates the Pilgrim’s Pride Corporation WWTP.
8. “Facility” and “Plant” means the Pilgrim’s Pride Corporation WWTP located in Rockingham County, Virginia.
9. “VRO” means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
10. “Permit” means Virginia Pollutant Discharge Elimination System Permit No. VA0002313, which became effective December 12, 1999 and expires December 12, 2004. Permit limits include pH, biochemical oxygen demand [“BOD”], total suspended solids [“TSS”], fecal coliform, dissolved oxygen [“DO”], nitrates, total kjeldahl nitrogen [“TKN”], ammonia, oil and grease, chronic whole effluent toxicity and total residual chlorine [“TRC”].
11. “NOV” means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Pilgrim’s Pride owns and operates a wastewater treatment facility serving the poultry processing company located in Hinton, Rockingham County, Virginia. The Facility is the subject of VPDES Permit VA0002313 which allows the Facility to discharge treated wastewater from outfall 001, and storm water from outfall 003 to Muddy Creek, and storm water from outfall 002 to War Branch in the Shenandoah River subbasin in the Potomac River basin
2. In October 2002, Pilgrim’s Pride completed the second of two phases of WWTP upgrades. The second phase included the expansion of the Plant to accommodate a second shift of operations at the poultry processing plant and upgrades to increase the oxidation capacity and de-nitrification capability of the treatment Plant. These changes in the treatment scheme added an extensive amount of new equipment and operational changes. The company found the new treatment scheme more difficult to operate than the previous scheme.
3. In November 2002, the Facility began to experience ammonia, BOD and TRC effluent limitation violations. The Facility has primarily experienced chronic problems meeting the TRC limits since November 2002.
4. DEQ issued NOV No. W2003-05-V-0001 on May 7, 2003, to Pilgrim’s Pride for apparent violations of pH, BOD, ammonia, and TRC effluent limits occurring during the period from November 2002 through March 2003.

5. On June 6, 2003, DEQ met with Pilgrim's Pride in an informal settlement conference to discuss the May 7, 2003, NOV and resolution of the violations. The June 6, 2003, meeting included discussions of the Facility operations and recent design modifications to the Plant and the need for a plan and schedule of corrective actions to return the Facility to compliance with final effluent limitations.
6. By June 9, 2003, Pilgrim's Pride completed further modifications/upgrades to the Plant that were made to resolve the Facility's continuing problems including controlling chlorination/dechlorination. The modifications included the installation of settling tanks, a clarifier, and new chemical feed pumps.
7. By letter dated June 30, 2003, Pilgrim's Pride provided a status of the corrective actions completed to date and a written plan of actions to ensure the Facility's compliance with the Permit's requirements. Sections of this plan and schedule have been incorporated into Appendix A of this Order.
8. DEQ issued NOV No. W2003-07-V-0004 on August 5, 2003, to Pilgrim's Pride for apparent TRC and ammonia effluent violations occurring during the period from April through June 2003.
9. By letters dated August 7, 2003 and September 10, 2003, Pilgrim's Pride indicated that the Facility had been in compliance since the completion of the June 2003 modifications to the treatment system. The company noted that it expected the Facility to remain in compliance following the June 2003 Facility modifications.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Pilgrim's Pride, and Pilgrim's Pride agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Pilgrim's Pride, and Pilgrim's Pride voluntarily agrees, to pay a civil charge of **\$4,500** within **30 days** of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Pilgrim's Pride shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Pilgrim's Pride, for good cause shown by Pilgrim's Pride, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued to Pilgrim's Pride by DEQ on May 7, 2003 and August 5, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Pilgrim's Pride admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Pilgrim's Pride consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Pilgrim's Pride declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Pilgrim's Pride to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Pilgrim's Pride shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Pilgrim's Pride shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pilgrim's Pride shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may

delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Pilgrim's Pride intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Pilgrim's Pride. Notwithstanding the foregoing, Pilgrim's Pride agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Pilgrim's Pride. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pilgrim's Pride from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Pilgrim's Pride voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 200_____.

Robert G. Burnley, Director
Department of Environmental Quality

Pilgrim's Pride Corporation voluntarily agrees to the issuance of this Order.

By: _____

Title: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this

_____ day of _____, 2003, by _____,
(name)

who is _____ of Pilgrim's Pride Corporation, on behalf of said corporation.

(title)

Notary Public

My commission expires: _____.

APPENDIX A
SCHEDULE OF COMPLIANCE
PILGIM'S PRIDE CORPORATION

1. Pilgrim's Pride shall monitor the Plant performance for a period of **six months** following the effective date of this Order. If, during this period the Plant does not remain in full compliance with Permit effluent limitations, Pilgrim's Pride shall submit to DEQ for review and approval a plan and schedule of corrective actions to address those violations. The plan shall be due **within 30 days** of written request by DEQ. Pilgrim's Pride shall respond to any comments from DEQ on the said plan **within 30 days** of receipt of written comments. Upon its approval by DEQ, the plan shall be incorporated by reference into this Order and shall be enforceable under the terms of this order.
2. Pilgrim's Pride shall submit quarterly progress reports to DEQ, with the first report being due **October 10, 2003**. Subsequent Progress Reports will be due by **January 10, April 10, July 10, and October 10**, along with the Facility's Discharge Monitoring Report until the cancellation of the Order. The quarterly progress reports shall contain:
 - a. a summary of all work completed since the previous progress report in accordance with this Order.
 - b. a projection of the work to be completed during the upcoming quarter in accordance with this Order; and
 - c. a statement regarding any anticipated problems in complying with this Order.